

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

MAACO FRANCHISOR SPV, LLC, AS
SUCCESSOR-IN-INTEREST TO MAACO
FRANCHISING, LLC

Plaintiff,

vs.

CIPERCEN, LLC, A TEXAS LIMITED
LIABILITY COMPANY,
JORGE CEREIJO, INDIVIDUALLY, AND
ANDRES BURZACO, INDIVIDUALLY,

Defendants.

Civil Action No. 3:18-CV-461-MOC-DCK

MOTION FOR CLERK’S DEFAULT

Plaintiff, **MAACO FRANCHISOR SPV, LLC, AS SUCCESSOR-IN-INTEREST TO MAACO FRANCHISING, LLC** (hereinafter referred to as “Maaco”), by and through undersigned counsel and pursuant to *Fed.R.Civ.P.* 55, hereby moves the Clerk to enter default against Defendant **JORGE CEREIJO** (“Cereijo”), and as grounds states as follows:

1. Cereijo was served with process in this matter on September 5, 2018. A true and correct copy of the Return of Service for Cereijo is attached hereto and incorporated herein as **Exhibit “A.”**

2. Pursuant to Rule 12, *Fed.R.Civ.P.*, a party has twenty-one (21) days to serve a responsive pleading from the date of service.

3. Consequently, Cereijo’s response to the Complaint was due on or before September 26, 2018.

4. To date, Cereijo has failed to serve or file a responsive pleading or otherwise taken any steps to defend this action.

5. Under Rule 55, *Fed.R.Civ.P.*, the clerk must enter a default against a party when they have failed to plead or otherwise defend an action seeking a judgment for affirmative relief.

6. In the case at hand, Plaintiff is seeking a judgment for damages against Defendant Cereijo.

7. Cereijo is not currently serving as active military personnel. A Declaration of Non-Military Service is attached hereto and incorporated herein as **Exhibit “B.”**

8. As a result, default against Defendant Cereijo is proper at this time.

WHEREFORE Plaintiff, MAACO FRANCHISOR SPV, LLC, respectfully requests that the Clerk issue a Default against Defendant Joseph Cereijo.

Dated October 11, 2018.

/s/David L. Tkach

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Attorneys for Maaco Franchisor SPV, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing MOTION FOR CLERK's DEFAULT was served upon all parties of record by electronically filing a copy of the same with the Court's ECF filing system which will send electronic notice by e-mail to:

Whitaker Rose (Fed. ID No. 12240)
505 East Boulevard
Charlotte, North Carolina 28203
Telephone: (704) 228-8578
Fax: (704) 371-6400
Email: wrose@rosenwoodrose.com

Attorney for Defendant Andres Burzaco and
Cipercen, LLC

And by U.S. Mail on:

Jorge Cereijo
1513 Blue Jay Circle
Weston, FL 33327

/s/David L. Tkach
Attorney